

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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PFIZER INC, )  
ROBERT JARVIK, M.D., )  
JARVIK HEART, INC., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
MATHEW I. GELFAND, M.D., )  
 )  
Defendant. )  
 )

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Civil Action No.: 08 CV 02018 (LAK)

**SECOND CONSENT MOTION FOR EXTENSION OF TIME FOR DEFENDANT TO  
RESPOND TO PLAINTIFFS' MOTION TO DISMISS DEFENDANT'S  
COUNTERCLAIMS**

Defendant, Mathew I. Gelfand, by and through his undersigned counsel, hereby respectfully, and with the consent of Plaintiffs, moves this Court pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure to extend time from June 12, 2008, through and including June 19, 2008, for Defendant to file and serve his response to Plaintiffs' Motion to Dismiss Defendant's Counterclaims, and states as follows:

1. On May 16, 2008, Plaintiffs filed a Motion to Dismiss Defendant's Counterclaims.
2. Pursuant to the Local Rules of this Court, a response to the motion is to be filed on or before June 2, 2008.
3. On June 2, 2008, Defendant filed Consent Motion for Extension of Time for Defendant to Respond to Plaintiffs' Motion to Dismiss Defendant's Counterclaims, (D. E. # 26).

4. On June 4, 2008, the Court entered an Order allowing Defendant to Respond to Plaintiffs' Motion to Dismiss Defendant's Counterclaims on or before June 12, 2008, (D. E. # 27).

5. Notwithstanding his counsel's best efforts, Defendant is unable to file his opposition on or before June 12, 2008. This is due solely to Court appearances on June 10 and 11, 2008, that undersigned counsel did not anticipate would occur or occur as long as they did, and which conflicts interfered with the preparation of the opposition. The obligations arising from these unanticipated matters captured time that counsel otherwise would have devoted to preparation of the opposition. While undersigned counsel expects to file before June 19, 2008, counsel seeks an additional week as a precaution.

6. The Parties agreed that Defendant shall file and serve a response to Plaintiffs' Motion to Dismiss Defendant's Counterclaims on or before 3:00 p.m., June 19, 2008.

7. Plaintiffs consent to the extension sought herein.

8. The rescheduling hereby requested will not adversely affect the balance of this case.

WHEREFORE, Defendant respectfully requests that the Court extend the time for Defendant to file and serve a response to Plaintiffs' Motion to Dismiss Defendant's Counterclaims on or before 3:00 p.m., June 19, 2008.

Dated: June 12, 2008  
Bethesda, Maryland

Respectfully Submitted,

**THE ROTBERT LAW GROUP, LLC**

/s/ Mitchell J. Rotbert  
Mitchell J. Rotbert  
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*Attorney for Plaintiff*  
*Mathew I. Gelfand, M.D.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on this 12th day of June 2008, I caused a copy of the foregoing **SECOND CONSENT MOTION FOR EXTENSION OF TIME FOR DEFENDANT TO RESPOND TO PLAINTIFFS' MOTION TO DISMISS DEFENDANT'S COUNTERCLAIMS** to be delivered via ECF filing and by United States Mail, postage prepaid, to:

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*Of Counsel for Plaintiffs*

\_\_\_\_\_  
/s/ Mitchell J. Rotbert  
Mitchell J. Rotbert

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Plaintiffs/Counter-Defendants,	)	
	)	
v.	)	Civil Action No.: 08 CV 02018 LAK
	)	
MATHEW I. GELFAND, M.D.,	)	
	)	
Defendant/Counter-Plaintiff.	)	
_____	)	

**ORDER**

UPON CONSIDERATION of the Second Consent Motion of Extension of Time for Defendant to Respond to Plaintiffs' Motion to Dismiss Defendant's Counterclaims, and for good cause shown,

IT IS HEREBY ORDERED, that the Consent Motion for Extension of Time is GRANTED; and

IT IS FURTHER ORDERED, that Defendant, Mathew I. Gelfand, shall file and serve his Response to Plaintiffs' Motion to Dismiss Defendant's Counterclaims on or before 3:00 p.m., June 19, 2008.

SO ORDERED.

\_\_\_\_\_  
Lewis A. Kaplan  
United States District Judge

Copies via electronic filing to:

Mitchell J. Rotbert, Esq.

David G. Ebert, Esq.

Jeffrey B. Bove, Esq.

Mary W. Bourke, Esq.

Rudolf E. Hutz, Esq.

William E. McShane, Esq.